

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated February 6, 2008. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-15 are pending in the Application. Claims 8-15 are added by this amendment. By means of the present amendment, claims 1-7 are amended including for better conformance to U.S. practice, such as deleting reference numerals typically used in European practice that are known to not limit the scope of the claims. Further amendments include amending dependent claims to begin with "The" as opposed to "A". By these amendments, claims 1-7 are not amended to address issues of patentability and Applicant respectfully reserves all rights under the Doctrine of Equivalents. Applicant furthermore reserves the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

Applicant thanks the Examiner for acknowledging the claim for priority and receipt of certified copies of all the priority documents.

In the Office Action, it is requested that Applicant cooperate in reviewing the specification and correct any errors in the specification to which the Applicant becomes aware of during this review. During a review of the application, Applicant has ensured that "(1) all reference characters in the drawings are described in the detailed description portion of the specification and (2) all reference characters mentioned in the specification are included in the appropriate drawing Figure(s) as required by 37 CFR 1.84(p)(5)." The Applicant in reviewing the specification has found no such errors and has found all such reference characters present in the specification and figures and as such, no amendments to the specification or figures are presented.

The Applicant gratefully acknowledges the suggestion in the Office Action to add section headings to the specification. However, the Applicant respectfully declines to add the headings as they are not required in accordance with MPEP §608.01(a) or 37 C.F.R. 1.77(b) for that matter.

In the Office Action, claims 1-7 are rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite due to use of the terms "releasable fixing means" in the claims. Applicant respectfully disagrees with and explicitly traverses this ground

for rejecting claims 1-7. It is the Applicant's position that releasable fixing means is clear and definite. However, in the interest of furthering the prosecution of this matter, Applicant has elected to amend the claims to more clearly state the invention. Specifically, Applicant has amended the claims to recite a fixing means for fixing ... Clearly claims 1-7 are definite. Accordingly, it is respectfully requested that the amendment to the claims be entered and that the rejection of claims 1-7 under 35 U.S.C. §112, second paragraph, be withdrawn.

Claims 1-7 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over U.S. Patent No. 4,190,208 to Schaeffer ("Schaeffer"). These rejections are respectfully traversed. It is respectfully submitted that claims 1-7 are allowable over Schaeffer for at least the following reasons.

It is undisputed that Schaeffer fails to show "at least two tools are designed to form a tool unit, and wherein the tool unit design is to be relocatable in relation to a holder, and wherein one tool at a time from the tool unit can be positioned in a window, in which case the at least one other tool is aligned facing towards a holder wall and covered by the holder wall, and wherein releasable fixing means are provided for fixing the tool unit to

the holder." (See, Office Action, page 4, lines 1-6.) However, inexplicably the Office Action finds that "[i]t would have been an obvious matter of design choice ..." The Office Action further finds this position supported in that "applicant has not disclosed that such a design choice solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well."

In rejecting claims under 35 U.S.C. §103, the Examiner bears the initial burden of establishing a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1442, 1444 (Fed. Cir. 1992). See also *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The Examiner can satisfy this burden by showing that some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art suggests the claimed subject matter. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

MPEP §2142 makes clear that "[t]he examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the Examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness.

It is respectfully submitted that the Office Action has not met the burden of making a *prima facia* case of obviousness under 35 U.S.C. §103. The Office Action has made it clear that Schaeffer fails to show significant sections of the provided claims yet comes to the inexplicable position that these sections are obvious design choices since the Office Action alleges that the Applicant has not disclosed that these design choices solve a stated problem or are for any particular purpose, a position which is not supportable by any current statement of the patent law and therefore has no bearing on the patentability of the pending claims.

However, the Applicant respectfully submits that in the specification it is pointed out that in a "food processor of this kind ... disclosed in U.S. Pat. No. 4,190,208 ... a separate tool is provided for each preparation process, which has to be connected to the holder in a separate connection step in order to undertake the particular preparation process. Apart from this rather complicated, awkward handling process, the problem also exists with the known food processor that a relatively large storage space is required for storing the individual tools, and that a storage space separate from the food processor is required for those tools not selected at the time." (See, present patent application, page 1,

lines 9-23.) The Applicant further points out that "[i]t is an object of the invention to eliminate the above-mentioned problems and to realize an improved food processor." (See, present patent application, page 1, lines 26-27.) The Applicant also makes clear in the specification that (emphasis added) "[o]wing to the provision of the features in accordance with the invention, it is achieved in a structurally simple, space-saving manner, that, as the result of their being gathered together to form a single tool unit, multiple tools of a food processor can make do with an optimally small space requirement. Above all, however, it is achieved that each of the tools that are gathered together to form a tool unit can, in a very simple manner, be brought into the operational position in the area of the window in the holder wall of the holder. Further, the advantage is obtained with the food processor in accordance with the invention that the protected storage of the particular tools that are not positioned in the area of the window in the holder wall of the holder is enabled within the food processor, specifically directly adjacent to the food processor holder, wherein especially good protection is ensured by the holder wall that is present in any event, towards which holder wall the covered tools are aligned. It is further achieved that no

storage space separate from the food processor is necessary for these tools. Further, an undesired disappearance or loss of a tool is prevented. (See, present patent application, page 2, lines 14-26.)

Accordingly, considering the Office Action's lack of making a prima facie case of obviousness and the clear advantages of the present device as exemplified by the claims as presented, it is respectfully requested that the rejections of the claims be withdrawn and that claims 1-15 be allowed.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

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Amendment in Reply to Office Action of February 6, 2008

Applicant has made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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